

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

<b>MELVIN LEWIS CARROLL,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>1:05CV01151</b>
<b>v.</b>	)	<b>1:03CR190-1</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	

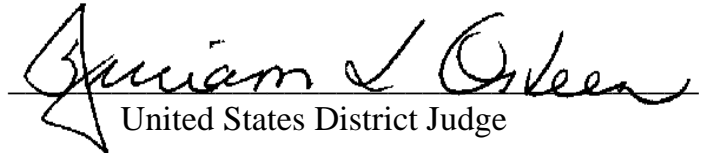
**O-R-D-E-R**

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on July 18, 2006, was served on the parties in this action. On July 31, 2006, Petitioner filed a premature “notice of appeal” which the Court will treat as objections to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge’s report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge’s report. The court therefore adopts the Magistrate Judge’s recommendation.

**IT IS THEREFORE ORDERED** that Respondent’s motion to dismiss this action for being filed beyond the one-year limitation period [Pleading No. 5] be **GRANTED**, that Petitioner’s motion to vacate, set aside or correct sentence [Pleading No. 1] be **DENIED**, and that this action be dismissed with prejudice. A judgment dismissing this

action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

  
United States District Judge

Date: September 29, 2006